IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 1162 OF 2005
WITH
CIVIL APPLICATION NO.1439 OF 2005
IN
APPEAL FROM ORDER NO. 1162 OF 2005

Chamanlal G. Bhatia ... Appellant
V/s.
The Municipal Corp. of Gr. Mumbai.. Respondents

Mr. Girish Desai with Geeta Shastri for the appellant
Ms. Geeta Jogalekar for respondent.

CORAM : A.M. KHANWILKAR, J.
DATED : 26th June, 2006

P.C.

. Heard counsel for the parties. From the approved plan, which was produced before the Court, it is noticed that the kitchen portion is provided towards North-West side of the suit premises, whereas in-fact it is existing towards North-East side of the premises.

2. Counsel for the appellant submits that similar arrangement is found on the 2nd, 3rd and 4th floor respectively. However, no reason is forthcoming as to why action of demolition is precipitated only against the appellant. Counsel for the appellant submits that in view of similar arrangement, the kitchen portion may be permitted to be regularised.

3. According to the respondent, however, present

kitchen, is constructed in open space, which area was not included for the purpose of computing FSI of the building. It is for this reason his request for regularisation cannot be accepted. However, at this stage of the proceeding, it is not possible as to whether the entire FSI is exhausted.

4. Appellant is at liberty to make application to the Executive Engineer, Building Proposal (City). That application be made through Architect, providing all necessary information for scrutiny of the proposal, within six weeks from today. After such application is received, the competent officer shall finally dispose of that application within six weeks from the receipt thereof. The competent officer shall decide the said application on its own merits in accordance with law. Till such application is decided, no precipitative steps be taken with regard to the suit property.

5. It is also made clear that if Corporation rejects the proposal of regularisation preferred by the appellant, in that case, it will be open to the Corporation to proceed against the suit structure in accordance with law. If Corporation decides to

proceed against the suit structure, then Corporation shall also ensure that similar action is simultaneously persued against other premises, where similar alteration has been done situated on 2nd, 3rd and 4th floor as the case may be.

5. Appeal and the cognate Civil Application disposed of on the above terms.

[A.M. KHANWILKAR,J.]